IN THE HIGH COURT OF UTTARAKAHAND AT NAINITAL

Writ Petition No. 776(S/S)2006

Ex.no. 14266676 Signalman Shiv Singh
Son of Sri Bora Singh,
Resident of village Khanana P.O. Maroragad
Tehsil Deoprayag, District Tehri Garhwal. ---- Petitioner

Vs.

1. Union of India through its Secretary,
   Ministry of Decence, New Delhi,
2. Senior Record Officer, Signal Record Office
   Post Box No. 5, Jabalpur,
3. Commanding Officer, Central Command,
   Signal Regiment, Lucknow,
4. Chief Controller of Defence Account Pension,
   Allahabad, U.P. --- Respondents.

Sri K.N. Johsi, learned counsel for the petitioner.
Sri Pradeep Joshi, learned Standing Counsel for Union of India/ respondents.

Hon'ble M.M. Ghildiyal, J,

Heard Sri K.N. Joshi, learned counsel for the petitioner and Sri Pradeep Joshi, learned Standing Counsel for Union of India/ respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

i. Issued a writ, order or direction in the nature of certiorari for quashing the impugned order dated 21.11.1995 passed by the Chief Controller of Defence Account (Pension) Allahabad, order dated 20.05.1997 passed in the appeal by the respondent no. 1, as well as the order dated 15.07.2005 passed by the respondents,

ii. Issue a writ, order or direction in the nature of mandamus directing the respondent to grant the

disability pension to the petitioner form the date of discharges with 9% interest.

iii. Issue any other order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case,

iv. Award the cost of petition.

The respondents have filed f their counter affidavit raising a preliminary objection, that the present writ petition is barred by the Principal of Res- judicata as the petitioner has already preferred a writ petition before the High Court of Delhi for the same of action and the said Civil Writ Petition bearing no. 4140 of 2002 is under sub- judice before the High Court of Delhi, as such, the present writ petition is liable to-be dismissed.

The present writ petition has been filed in the year 2006 and on 18.012.2006 the respondents have filed their counter affidavit. Perusal of the counter affidavit reveals that the petitioner, for the similar reliefs and for the same cause of action, had already filed writ petition before the High Court of Delhi, which is still pending. The petitioner cannot file writ petition in two Courts simultaneously. Thus, the writ petition is liable to be dismissed accordingly.

The writ petition is dismissed. No order as to costs.

(M.M. Ghilidyal, J.)

April 13, 2007:
NCM: